



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

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12/19/00
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**VIA FEDERAL EXPRESS OVERNIGHT MAIL AND VIA
CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

The Corporation Trust Co.
820 Bear Tavern Road
West Trenton, NJ 08628

Registered Agent for ASARCO Incorporated

**Re: Tar Creek Superfund Site, Ottawa County, OK; Rural Operable Unit 4; Request
that you perform RI/FS and pay costs; Special Notice: Please respond with a good-
faith offer within 60 days**

Dear Sir or Madam:

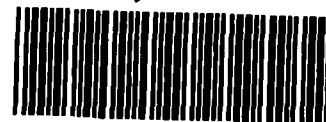
This is to invite ASARCO Incorporated ("you" or "ASARCO") to enter into an agreement with the U.S. Environmental Protection Agency (EPA) to undertake a Remedial Investigation and Feasibility Study (RI/FS) regarding hazardous substance contamination in certain rural areas that are part of the Tar Creek Superfund Site (the "Site") and to pay certain EPA costs. The Site is located in Ottawa County, Oklahoma. The rural areas that will be the subject of the RI/FS are referred to in the enclosed Special Notice as Rural Operable Unit 4 or ROU4. The hazardous substances in question may pose a danger to human health (especially children's health) or to the environment.

The EPA is asking you to enter into an Administrative Order on Consent (AOC) (a copy of this AOC is enclosed) to conduct the RI/FS and to pay costs because we believe you are potentially responsible for the cost of the cleanup under the Superfund law. The enclosed Special Notice explains your potential responsibility more clearly.

Please note that EPA has sent a similar letter to other potentially responsible parties (PRPs). As explained in the enclosed notice, we encourage you to discuss this matter with the other PRPs. The name and addresses of the other PRPs are included in the enclosed notice.

In addition to avoiding the costs of litigation, settling with the EPA provides you with another advantage. Under the Superfund law, settling with the EPA helps protect you should another responsible party sue you for costs which that party pays to the EPA.

Please carefully read the enclosed Special Notice. The Special Notice requires you to respond within 60 days with a good-faith offer to conduct or finance the RI/FS. If you wish to



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negotiate with the EPA, please write, fax or e-mail to EPA Senior Attorney James E. Costello. Mr. Costello's address appears in the enclosed notice.

To arrange a negotiation meeting with the EPA, please contact Mr. Costello at (214) 665-8045. If you decide to meet with the EPA to negotiate, we encourage you to contact the other PRPs, so you can work together in these negotiations. The EPA finds that negotiations are expedited if PRPs work together, but we will meet with you individually as well. If you have any questions regarding this matter, please call Mr. Costello.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Myron O. Knudson". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Myron O. Knudson, P.E.
Director
Superfund Division

Enclosures

cc: Mr. Robert Ferry
General Counsel
ASARCO Incorporated
180 Maiden Lane
New York, NY 10038

**SPECIAL NOTICE REGARDING
TAR CREEK SUPERFUND SITE
RURAL OPERABLE UNIT 4
REMEDIAL INVESTIGATION AND FEASIBILITY STUDY
SETTLEMENT OPPORTUNITY**

This Special Notice is from the U.S. Environmental Protection Agency (EPA). This notice says that ASARCO Incorporated (in the rest of this notice ASARCO Incorporated is referred to as "you") may be liable for the costs of the cleanup of hazardous substances released into the environment in certain rural areas of the Tar Creek Superfund Site (the "Site") which is located in Ottawa County, Oklahoma. These rural areas are referred to as Rural Operable Unit 4 or ROU4. The Site and ROU4 are each described on maps that are attached to the draft Administrative Order on Consent (AOC) which is an attachment to this notice.

This notice provides you with information in four categories:

1. First, this notice tells you that you may be responsible for the cost of the cleanup of lead-, zinc- and cadmium-contaminated soil and other material at ROU4. The law known as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) says that persons are responsible for cost of the cleanup of hazardous substances in certain cases. CERCLA is also called Superfund.
2. This notice asks you to pay the EPA for certain costs associated with ROU4.
3. Third, this notifies you that a 60-day period of formal negotiations with the EPA, regarding ROU4 automatically begins with your receipt of this notice. This notice asks you pay certain costs and to finance or perform a Remedial Investigation and Feasibility Study (RI/FS) regarding the hazardous substance contamination on ROU4, under a settlement agreement with EPA.
4. Fourth, this notice requests that you respond within 60 days, from your receipt of this notice, with a good-faith offer to conduct or finance the RI/FS, and to pay EPA for past and future response costs at the Site. Finally, this notice encourages you to contact other PRPs to form a steering committee responsible for expediting the settlement process.

I. NOTICE THAT YOU MAY BE LIABLE

Zinc and lead ore mining and milling operations took place on ROU4. As part of the operations, mill and mine wastes were disposed of on ROU4. This waste contained the hazardous substances lead, zinc and cadmium at dangerous concentration levels. Some of this lead-, zinc- and cadmium-contaminated waste migrated to other parts of ROU4 as windblown dust and as polluted rainwater runoff. The EPA has found that the lead, zinc and cadmium concentrations on the ROU4 may pose a risk to human health and to the environment.

CERCLA identifies four types of persons that are liable for paying the EPA to clean up hazardous substances that have been released:

1. Persons who now own the place where the hazardous substance was released;
2. Persons who once owned or operated the place where the hazardous substance has been released during the time when the hazardous substance was disposed of;
3. Persons who arranged for disposal or treatment of hazardous substances at the place where the hazardous substance has been released; or
4. Persons who selected the place where the hazardous substance has been released as a disposal site and transported the hazardous substances to that place.

You may want to read the section of the CERCLA law which tells which persons are liable for the cost of cleaning up hazardous substances. CERCLA can be found in Title 42 of the United States Code (U.S.C.) in Sections 9601 through 9675. The part of CERCLA which tells about these responsible parties can be found at Section 9607 (42 U.S.C. § 9607), sometimes referred to as CERCLA Section 107. Definitions of terms used in CERCLA can be found in Section 9601.

Records which we have on hand indicate that at one time you operated part of ROU4 at a time when the hazardous substances lead, zinc and cadmium were disposed of on that part of the ROU4. Accordingly, you may be a potentially responsible party (PRP) under the Superfund law. The EPA invites you to take stock of the evidence, and to enter into the enclosed Administrative Order on Consent for Remedial Investigation and Feasibility Study for Rural Operable Unit 4, in order to settle your liability with EPA with respect to this matter.

II. REQUEST FOR PAYMENT

The EPA has paid for response actions at ROU4. The EPA's costs are consistent with the CERCLA law, and the National Contingency Plan (NCP). The NCP includes the EPA's procedures for preparing and responding to releases of hazardous substances and can be found in the Code of Federal Regulations (CFR) at Title 40, Part 300. The EPA's costs include without limitation cleanup costs, investigative research and data gathering, site inspections and enforcement costs. As of _____, the EPA has paid \$_____ related to ROU4. Under CERCLA Section 107, 42 U.S.C. § 9607, responsible parties are liable for the EPA's costs. As explained above, the EPA believes you are a responsible party. Accordingly, the EPA hereby requests that you pay the EPA \$_____ to reimburse the EPA for costs it has paid related to the Site.

Please make your payment for \$_____ by certified check made payable to "EPA Hazardous Substance Superfund," and referencing CERCLA Site ID Number ____*. Send the certified check to:

EPA-Superfund, Tar Creek Rural Operable Unit 4, _____
Superfund Accounting
P.O. Box 360582 M
Pittsburgh, PA 15251
ATTN: Collection Officer for Superfund

Send a copy of the check to:

U. S. Environmental Protection Agency Region 6
Chief, Cost Recovery Section 6SF-AC
1445 Ross Avenue - Ste. 1200
Dallas, TX 75202-2733

III. NEGOTIATION PERIOD AND MORATORIUM REGARDING CERTAIN ACTIVITY AT THE SITE

The EPA has determined that use of the special notice procedures specified in CERCLA Section 122(e), 42 U.S.C. § 9622(e), may facilitate a settlement between EPA and the PRPs for ROU4. Therefore, pursuant to CERCLA Section 122, 42 U.S.C. § 9622, this notice establishes a 60-day moratorium on certain EPA response activities at ROU4. During this 60-day moratorium, you and any other PRPs, are invited to negotiate a settlement agreement. The settlement will provide for you to (1) conduct or finance the Remedial Investigation and Feasibility Study (RI/FS) activities required for the ROU4, and (2) reimburse EPA for costs incurred at ROU4, and to be incurred in overseeing the PRPs' performance of the RI/FS. The 60-day negotiation period will formally begin upon your receipt of this notice.

If, by the end of the 60-day period, you provide EPA with a good faith offer to conduct or finance the RI/FS and to reimburse EPA for response costs previously incurred at ROU4, and to be incurred in overseeing the RI/FS, the 60-day negotiation moratorium will be extended an additional 30 days to conclude negotiations. If settlement is reached between EPA and you within the 90-day negotiation moratorium, the settlement will be embodied in an Administrative Orders on Consent (AOC) to be issued by the Superfund Division Director, EPA Region 6.

A draft AOC, written specifically for ROU4, and a draft Statement of Work (SOW) for the RI/FS activities are enclosed. To expedite EPA's review of your good-faith offer, EPA recommends that any revision of the draft AOC or the Statement of Work be presented to EPA with the deleted portions lined through and your proposed language added in a distinctive manner. If you use WordPerfect (which is used by EPA), or other word processing equipment, please submit a

redline/strikeout version. An electronic version of the draft AOC may be obtained from EPA Senior Attorney Mr. James E. Costello whose address appears below.

IV. PLEASE RESPOND WITH A GOOD-FAITH OFFER WITHIN 60 DAYS OF YOUR RECEIPT OF THIS LETTER

Please use the enclosed draft AOC and draft SOW to assist you and any other PRPs in developing a good-faith offer for conducting the RI/FS and for settling EPA's claim for costs. In order for your proposal to be considered a good-faith offer, it must be in writing and it must include the following:

1. Your statement that you are willing to conduct or finance the RI/FS in a manner consistent with EPA's draft SOW and draft AOC, which provides a sufficient basis for further negotiation.

2. A paragraph-by-paragraph response to EPA's draft SOW and draft AOC (a redline/strikeout version of the AOC and SOW, as described above, is adequate for this purpose). In addition, please identify the changes which you consider to be major issues.

3. A demonstration that you are technically capable of carrying out the RI/FS, including the identification of the party or parties that may actually conduct the work, or a description of the process that you will use to select the party or parties.

4. A statement that you are willing to reimburse EPA for response costs previously incurred at the Site and to be incurred in overseeing the PRPs' performance of the RI/FS.

5. A demonstration that you are capable of financing the RI/FS (an annual report is sufficient).

8. The name, address, and phone number of the party or steering committee representative who will represent you and any other PRPs in negotiations, if applicable.

If EPA determines that a good faith offer has not been submitted within the 60-day period, EPA may, thereafter, terminate the negotiation moratorium period pursuant to Subsection 122(e)(4) of CERCLA, 42 U.S.C. § 9622(e)(4), and commence such response activities or enforcement actions as may be appropriate.

Finally, in keeping with the goal of reducing the time and expense of negotiations and to expedite settlements, please be certain to provide all proposed changes in your initial good faith offer, as the EPA may not entertain changes requested at a later date. Please mail, fax or E-mail

your good-faith offer to Mr. Costello at the following address:

James E. Costello
Senior Attorney (6SF-DL)
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
(214) 665-8045
FAX (214) 665-6460
E-mail: costello.james@epa.gov

To arrange a negotiation meeting with the EPA, please contact Mr. Costello at the telephone number listed above. If you decide to meet with the EPA to negotiate, we encourage you to contact the other PRPs so that you may work together in this matter. The EPA finds that when PRPs work

together it expedites negotiations, but we will meet with you individually as well. The PRPs to whom this Special Notice is being sent are as follows:

ASARCO Inc.
180 Maiden Lane
New York, NY 10038

Blue Tee Corporation
250 Park Avenue South
New York, NY 10003

Childress Royalty Company, Inc.
411 W. 5th St.
Joplin, MO 64801

The Doe Run Resources Corporation
1801 Park 270 Drive
Suite 300
St. Louis, MO 63146

Gold Fields Mining Corp.
14062 Denver West Parkway #110
Golden, CO 80401-3121

NL Industries, Inc.
3000 N. Sam Houston Parkway East
Houston, TX 77032

U.S. Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
Washington, DC 20240

ADMINISTRATIVE RECORD FILE

Pursuant to CERCLA § 113(k), 42 U.S.C. § 9613(k), EPA has established an administrative record file for the Tar Creek Superfund Site including without limitation ROU4 at the following location:

Miami Public Library
200 North Main Street
Miami, OK 74354
(918) 542-3064

The administrative record file contains documents that form the basis for EPA's response actions at the Site. The administrative record file is open to the public for inspection. Another copy of the administrative record file is available for review on the seventh floor of the EPA Region 6 offices and arrangements can be made to review it by calling (214) 665-2792 or (800) 533-3508.

The discussions of fact or law in this notice are meant to help you understand CERCLA and the EPA's actions at the Site including without limitation ROU4. The discussions of fact and law are not final EPA positions on any matter discussed in this notice. If you have any questions regarding this matter, please call Mr. Costello.



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REGION 6
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DALLAS, TEXAS 75202-2733

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Please carefully read the enclosed Special Notice. The Special Notice requires you to respond within 60 days with a good-faith offer to conduct or finance the RI/FS. If you wish to

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Myron O. Knudson, P.E.
Director
Superfund Division

Enclosures

cc: Mr. Robert Ferry
General Counsel
ASARCO Incorporated
180 Maiden Lane
New York, NY 10038

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11-16-00
Costello
CASANOVA
6SF-AP

SULLIVAN
6SF-AP

CHAVARRIA
6SF-AP
10-30-00

HONKER
6SF-A
WKF
11/30

BOLDEN
6SF-AC
11/28/00

PARR BUZZELL
6SF 6SF
11/29/00 *11/30*

PEYCKE
6ORC-S
11/30/00

PHILLIPS
6SF
11/30/00

**SPECIAL NOTICE REGARDING
TAR CREEK SUPERFUND SITE
RURAL OPERABLE UNIT 4
REMEDIAL INVESTIGATION AND FEASIBILITY STUDY
SETTLEMENT OPPORTUNITY**

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3. Third, this notifies you that a 60-day period of formal negotiations with the EPA, regarding ROU4 automatically begins with your receipt of this notice. This notice asks you pay certain costs and to finance or perform a Remedial Investigation and Feasibility Study (RI/FS) regarding the hazardous substance contamination on ROU4, under a settlement agreement with EPA.
4. Fourth, this notice requests that you respond within 60 days, from your receipt of this notice, with a good-faith offer to conduct or finance the RI/FS, and to pay EPA for past and future response costs at the Site. Finally, this notice encourages you to contact other PRPs to form a steering committee responsible for expediting the settlement process.

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Please make your payment for \$ _____ by certified check made payable to "EPA Hazardous Substance Superfund," and referencing CERCLA Site ID Number ____*. Send the certified check to:

EPA-Superfund, Tar Creek Rural Operable Unit 4, _____
Superfund Accounting
P.O. Box 360582 M
Pittsburgh, PA 15251
ATTN: Collection Officer for Superfund

Send a copy of the check to:

U. S. Environmental Protection Agency Region 6
Chief, Cost Recovery Section 6SF-AC
1445 Ross Avenue - Ste. 1200
Dallas, TX 75202-2733

III. NEGOTIATION PERIOD AND MORATORIUM REGARDING CERTAIN ACTIVITY AT THE SITE

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4. A statement that you are willing to reimburse EPA for response costs previously incurred at the Site and to be incurred in overseeing the PRPs' performance of the RI/FS.
5. A demonstration that you are capable of financing the RI/FS (an annual report is sufficient).
8. The name, address, and phone number of the party or steering committee representative who will represent you and any other PRPs in negotiations, if applicable.

If EPA determines that a good faith offer has not been submitted within the 60-day period, EPA may, thereafter, terminate the negotiation moratorium period pursuant to Subsection 122(e)(4) of CERCLA, 42 U.S.C. § 9622(e)(4), and commence such response activities or enforcement actions as may be appropriate.

Finally, in keeping with the goal of reducing the time and expense of negotiations and to expedite settlements, please be certain to provide all proposed changes in your initial good faith offer, as the EPA may not entertain changes requested at a later date. Please mail, fax or E-mail

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James E. Costello
Senior Attorney (6SF-DL)
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
(214) 665-8045
FAX (214) 665-6460
E-mail: costello.james@epa.gov

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ASARCO Inc.
180 Maiden Lane
New York, NY 10038

Blue Tee Corporation
250 Park Avenue South
New York, NY 10003

Childress Royalty Company, Inc.
411 W. 5th St.
Joplin, MO 64801

The Doe Run Resources Corporation
1801 Park 270 Drive
Suite 300
St. Louis, MO 63146

Gold Fields Mining Corp.
14062 Denver West Parkway #110
Golden, CO 80401-3121

NL Industries, Inc.
3000 N. Sam Houston Parkway East
Houston, TX 77032

U.S. Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
Washington, DC 20240

ADMINISTRATIVE RECORD FILE

Pursuant to CERCLA § 113(k), 42 U.S.C. § 9613(k), EPA has established an administrative record file for the Tar Creek Superfund Site including without limitation ROU4 at the following location:

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Miami, OK 74354
(918) 542-3064

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